

THE HON'BLE SRI JUSTICE K.C. BHANU

W.P.No.13222 of 2002

DATE: 25.07.2005

Between:

ITW Signode India, Gandhinagar Works Employees Union,
rep. By its General Secretary,
since become defunct
rep. By the concerned workman Sri M.L. Joseph.

..... Petitioner

and

1. The Industrial Tribunal-II, rep. By its Chairman.
2. The Management of M/s ITW Signode India Limited.

..... Respodnents

THE HON'BLE SRI JUSTICE K.C. BHANU

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ORDER:

Challenging the order, dated 21.01.2002, in E.P.No.4 of 2001 in I.D.No.8 of 1999 on the file of the Industrial Tribunal-II, Hyderabad (for short 'the Tribunal'), the writ petition has been filed.

The facts are not in dispute. The petitioner is one of the workmen of the Employees union, which raised I.D.No.8 of 1999. The Tribunal, by its Award, dated 18.08.2000, passed the order, to the following effect:

“In the result, the Award passed holding that there is no union in existence and there is no need to adjudicate about the demands made by the petitioner union, in view of its non-existence. Respondent is further directed to retire the petitioners Sri R. Chitti Babu, Sri V. Madhava Rao and Sri M.L.Joseph and pay the terminal benefits after finalisation of disciplinary proceedings pending against them. The respondent is further directed to take finalisation in the disciplinary proceedings within three months at any cost not exceeding six months. In case the respondent fails to take final action in the disciplinary proceedings against the supra stated three individuals within six months, the respondent is directed to pay all the terminal benefits on par with employees similarly situated.

Accordingly, the AWARD is passed without costs.”

The Award has become final, as none of the parties to the I.D. has challenged the same. Thereafter, as the said Award has not been complied with, the petitioner filed execution proceedings being E.P.No. 4 of 2001 before the Tribunal. Through the order impugned, the Tribunal dismissed the said petition, on the ground of jurisdiction.

The learned counsel for the petitioner contended that during the pendency of the I.D., almost 110 employees were given the benefits of 'Voluntary

Retirement Scheme' and R.Chitti Babu, V. Madhava Rao and the petitioner were not extended its benefits, because of the disciplinary proceedings pending against them. He further contended that though there is no specific reference as to the issue, the Tribunal has exercised its incidental powers, moulded the relief and directed the second respondent to pay the terminal benefits to the three employees, if the disciplinary proceedings are not completed within three months from the date of that order, and in that view of the matter the above said three employees are entitled to the same. The learned counsel pointed out that the Tribunal failed to execute its own Award.

On the other hand, the learned counsel appearing for the second respondent contended that the Tribunal exceeded its jurisdiction in directing the second respondent to pay the terminal benefits, and hence the Tribunal rightly dismissed the execution proceedings on the ground of jurisdiction.

Admittedly, the Award passed by the Tribunal, dated 18.08.2000, has become final. As per the Award, the second respondent was directed to conclude the departmental proceedings against the three workmen, one among them is the present petitioner, and in the event of its failure to do so, the petitioner and others are entitled to receive the terminal benefits on par with the other employees. When the execution petition is filed claiming the terminal benefits, the Tribunal came to the conclusion that the Award passed by it is without jurisdiction, since no reference was made with regard to the above issue. Such an observation is untenable in view of the fact that as an executing court it cannot sit over the appeal against the Award passed by the competent Court. Even otherwise, the reference made by the Government to the Tribunal is

1. Whether the ITW Signode India, Gandhinagar works employees union (B-2102), Hyderabad is justified in raising the demands as per the charter of demands dated 03.02.1998 submitted to the management of ITW Singode India Ltd., Moula Ali, Hydeabad?
2. If not, to what relief the workman are entitled?

In view of the conciliation between the parties, the employees agreed for the voluntary retirement scheme introduced by the second respondent. In respect of 110 employees, it was given effect to and they have taken out all the

retirement benefits, whereas three workmen, including the petitioner, were not extended the same, because of the disciplinary proceedings pending against them. If the disciplinary proceedings were not pending, the second respondent would have extended the benefits to the three workmen. The second respondent-management was directed to complete the enquiry within three months, in default the three workmen are also entitled to the terminal benefits on par with the other employees. Therefore, the said order cannot be said to be contrary to the reference. In view of the changed circumstances, the Tribunal moulded the relief, which will squarely come under the purview of point No.2. In any view of the matter, the Award passed by the Tribunal has become final. Therefore, the second respondent is under obligation to execute the said Award. Now the executing Court cannot go beyond the Award passed by the Tribunal saying that it has no jurisdiction.

Hence, the impugned order is set aside and the matter is remanded to the Tribunal to decide the issue in accordance with law. All the contentions raised by the second respondent before this Court are left open.

It is contended by the learned counsel for the second respondent that the second respondent paid all the terminal benefits to the writ petitioner. That contention cannot be looked into by this Court at this stage. It is for the executing Court to delve into the merits of the case.

The writ petition is, therefore, allowed. There shall be no order as to costs.

25.07.2005

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